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In Propria Persona

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

TODD R. G. HILL, et al,

Plaintiffs

vs.

THE BOARD OF DIRECTORS, OFFICERS AND AGENTS AND INDIVIDUALS OF THE PEOPLES COLLEGE OF LAW, et al.,

Defendants.

CIVIL ACTION NO. 2:23-cv-01298-JLS-BFM

The Hon. Josephine L. Staton
Courtroom 8A, 8th Floor

Magistrate Judge Brianna Fuller Mircheff
Courtroom 780, 7th Floor

PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE FIFTH AMENDED COMPLAINT; OPPOSITION TO DEFENDANTS' PROCEDURAL OBJECTIONS AND MISCHARACTERIZATIONS (DKT. 333)

NO ORAL ARGUMENT REQUESTED

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PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE FIFTH AMENDED COMPLAINT; OPPOSITION TO DEFENDANTS' PROCEDURAL OBJECTIONS AND MISCHARACTERIZATIONS (DKT. 333)

TO THE HONORABLE COURT AND ALL PARTIES OF RECORD:

Plaintiff respectfully submits this response in opposition to the PCL Defendants' objection to Plaintiff's Motion for Leave to File the Fifth Amended Complaint ("5AC") (Dkt. 330). Defendants' opposition (Dkt. 333) fails to offer a credible basis under Fed. R. Civ. P. 15(a)(2) or *Foman v. Davis*, 371 U.S. 178 (1962), to deny leave, and notably sidesteps the substantive and procedural evolution that has occurred since the filing of the Fourth Amended Complaint ("4AC"). The opposition is procedurally strained, factually inaccurate, and substantively deficient. Plaintiff further submits that the Motion for Leave to File the Fifth Amended Complaint (5AC) was filed in direct response to both Defendants' procedural objections and in good faith.

I. INTRODUCTION

Rule 15(a)(2) motions are liberally granted. In the instant circumstance, the motion was filed in direct response to defense objections in the context of issues raised in consequence to Court directives. Local Rule 7-3 compliance was not required under these circumstances and Haight's failure to acknowledge this exception and mischaracterize it as a fatal flaw is a misleading presentation of law, undermining their credibility before the Court.

Defendants' Docket 333 notably fails to cite any controlling or persuasive legal authority clearly supporting their opposition to Plaintiff's Rule 15(a)(2) motion. Instead, Defendants advance procedural objections concerning Local Rule 7-3 compliance without reference to clear authority or acknowledgment of established exceptions recognized by this Court and district precedent. Such a filing, submitted by experienced counsel, raises questions regarding compliance with Federal Rule of

Civil Procedure 11(b)(2), which mandates that legal contentions be warranted by existing law or a reasonable argument for extending, modifying, or reversing such law. Plaintiff respectfully submits this concern for the Court's consideration, as it goes directly to counsel's obligation of candor, diligence, and good faith research. Plaintiff requests the Court consider Defendants' omission of relevant authority and the misleading framing of procedural rules in assessing the weight and credibility of their opposition. Plaintiff notes his prior raise of similar issues with the Court and expressly reserves the right to seek appropriate relief should this pattern persist.

Plaintiff has not only attempted to meet and confer consistently, he previously **sought Court intervention** and filed a formal motion to compel compliance with L.R. 7-3 after Defendants' pattern of evasion. The current Rule 15(a)(2) motion is part of that curative effort, not a violation. See Dkt. 261 and Dkt. 264, Plaintiff's prior motion to compel compliance with Local Rule 7-3, which documented Defendants' repeated refusal to engage. The Court's denial of sanctions did not endorse Defendants' conduct, it simply declined to impose penalties. That motion reflects Plaintiff's good faith and procedural diligence and directly contradicts Defendants' claim that Plaintiff habitually bypasses meet-and-confer obligations. Their omission of this critical procedural history renders their current objection not only misleading but demonstrative of a continuing pattern of procedural avoidance and litigation by ambush. Plaintiff notes that this omission by Haight also suggests the need for Rule 11(b)(2) scrutiny for presenting an incomplete and misleading procedural history.

Finally, Defendants fail to offer any reasoned analysis under Rule 1 or judicial economy. Allowing amendment would streamline the record and preserve the integrity of the factual and procedural framework, reducing the burden on the Court and parties in the long term. Denial of

amendment would not result in clarity or finality; it would only invite further procedural conflict, discovery disputes, and appellate risk.

II. LEGAL STANDARD

Under **Federal Rule of Civil Procedure 15(a)(2)**, courts "**should freely give leave [to amend] when justice so requires.**" This directive embodies a strong federal policy in favor of resolving disputes on the merits rather than through technicalities or procedural traps. The Supreme Court in *Foman v. Davis*, 371 U.S. 178, 182 (1962), instructed that leave to amend should be granted absent a showing of:

a. undue delay,

b. bad faith or dilatory motive,

c. repeated failure to cure deficiencies by amendments previously allowed,

d. undue prejudice to the opposing party, or

e. futility of amendment.

In the Ninth Circuit, this liberal policy is further reinforced. As the court stated in *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003):

"This policy is 'to be applied with extreme liberality.'"

"[T]he consideration of prejudice to the opposing party carries the greatest weight."

Unless the opposing party demonstrates actual prejudice or a strong showing of another *Foman* factor, courts should grant leave. Speculative or conclusory assertions of confusion, burden, or futility do not satisfy this standard. See *United States v. Corinthian Colls., Inc.*, 655 F.3d 984, 995 (9th Cir. 2011).

Moreover, a motion for leave to amend is especially appropriate when, as here, it is submitted in direct response to the Court's instructions or in an effort to clarify allegations and streamline the pleading. See *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc) ("[W]e have repeatedly stressed that the court must remain guided by the underlying purpose of Rule 15, to facilitate decision on the merits.").

Where, as here, there is no showing of bad faith, undue delay, or prejudice, and where the proposed amendments respond to evolving procedural directives and new evidence, Rule 15(a)(2) mandates that leave to amend be granted.

III. RULE 15(A)(2) AND LOCAL RULE 7-3 – NO RIGID REQUIREMENT

Haight does not seriously contest that Rule 15(a)(2) favors liberal amendment. Instead, the opposition recycles generalized objections about clarity and duplication—objections that were already rejected at the 4AC stage, and which ignore the streamlined and clarified nature of the 5AC. Haight fails to identify any specific prejudice or undue burden that would result from amendment, and thus fails to rebut the strong presumption in favor of leave to amend under Ninth Circuit precedent. See *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003).

A. COURT-INITIATED FILING INVITATION SUPERSEDES L.R. 7-3

The Court expressly invited the filing of a redline version of the proposed amended complaint (Dkt. 311). When a filing is submitted in response to a court order or sua sponte invitation, courts routinely excuse or relax the pre-filing conference requirement of L.R. 7-3. Case law supports this flexibility where compliance would be superfluous or counterproductive to the orderly progress of litigation.

B. DEFENDANTS PREVIOUSLY OBJECTED TO LACK OF FORMAL MOTION

This Rule 15 motion therefore is not only timely and appropriate, it was necessitated by the defense's own objections. Having demanded a formal motion and now opposing that very filing as improper or excessive reflects a transparent attempt at procedural gamesmanship. Defendants are now seeking to weaponize the procedural path they themselves demanded to suppress the substance of the claims.

The Rule 15 motion was filed not as a new or surprise motion, but to satisfy Defendant's shared and repeated oppositions or objections (in Dkts. 321, 327, etc.) that no formal motion accompanied the May 19 filing. Thus, it was a procedural cure, not a contested motion filed in disregard of rules.

C. DEFENDANTS' ARGUMENT COLLAPSES UNDER ITS OWN CIRCULARITY

Defendants assert that Plaintiff is "once again trying to cure pre-existing deficiencies," implying a failed history of pleading. But merely labeling something a deficiency does not make it so, especially when no court has adjudicated the sufficiency of the Fourth Amended Complaint (4AC).

Plaintiff does not dispute that the complaint has been amended multiple times. Each amendment has reflected either new evidence, judicial directives, or procedural refinement, not failure. The Fifth Amended Complaint (5AC) was initially submitted to address arguments in the context of pendant Rule 12(b)(6) and Rule 59(e) motions, not as a reflexive correction. Unlike the cases where courts deny leave due to repeated deficiencies, To date, no court has found Plaintiff's claims in the 4AC legally deficient, and Defendants' pending motions remain unadjudicated. Their repeated assertions of failure are rhetorical, not judicial. Defendants' assertion of 'repeated failure' rests on their own unresolved motions, not any ruling by this Court.

Defendants' argument collapses under its own circularity: they claim Plaintiff has repeatedly failed, yet rely on their own objections, not a judicial finding, as proof.

On the contrary, the Fifth Amended Complaint (5AC) represents a disciplined, good-faith refinement of the operative pleading, consistent with both the Court's directive in Dkt. 311 and the liberal amendment standard under Rule 15(a)(2). Plaintiff did not submit the 5AC as a reflexive response to a dismissal order. It was filed at the Court's express invitation and paired with a redlined version that demonstrates, line by line, how the amended pleading responds to Defendants' inexhaustible allegations of deficiency. It consolidates, clarifies, and narrows the claims—precisely what Rule 15 and the Court's directive envisioned. The redline itself, filed in full transparency, demonstrates unmistakably that:

1. Claims have been streamlined,
2. Parties have been omitted, and
3. Allegations have been reorganized for clarity, and

Notably, in the interim, judicial admissions (e.g., Dkt. 41) and newly produced evidence have been incorporated to update the record.

If anything, Defendants' reliance on their own unresolved motions to argue that Plaintiff has "failed" only highlights their attempt to preclude factual engagement by insisting that no complaint can ever be sufficient. That position not only distorts the Rule 15 standard, it undermines Rule 1's mandate to secure the just and efficient resolution of disputes.

Accordingly, Defendants' argument is not only unsupported by law or record, it is refuted by the procedural history, the Court's own instructions, and the redlined submission (Dkt. 313), which speaks for itself.

D. NO PREJUDICE TO DEFENDANTS

Courts in the Ninth Circuit hold that failure to comply with L.R. 7-3 is not grounds for denial unless the noncompliance prejudices the opposing party. Haight and Defendants had weeks of notice of the proposed 5AC and its content and were not ambushed or disadvantaged.

E. CONSISTENCY WITH PRACTICE ON MOTIONS TO AMEND

Rule 15 motions are frequently resolved on the papers and may be summarily granted without L.R. 7-3 compliance when filed to address curative or technical defects. The Ninth Circuit's liberal standard for amendments ("freely given when justice so requires") disfavors rigid formalism.

IV. DEFENDANTS FAIL TO ESTABLISH "UNDUE PREJUDICE" UNDER THE CORRECT LEGAL STANDARD

Defendants fundamentally misstate the legal standard for "undue prejudice" under Federal Rule of Civil Procedure 15. The prejudice that matters is not the ordinary time and expense of defending a lawsuit, including filing motions to dismiss, but rather prejudice to the opposing party's ability to prepare a defense on the merits. Such prejudice typically involves the loss of evidence, the unavailability of witnesses, or the need to reopen discovery late in the proceedings.

None of those factors are present here. This case remains at the pleading stage. No discovery has commenced, and no trial date has been set. The proposed Fifth Amended Complaint streamlines and clarifies the allegations, which *reduces* prejudice to the Defendants by making the claims easier to understand and respond to. Their complaint about the cost of litigation is not a valid basis to deny leave to amend.

V. FUTILITY ARGUMENT IS CONCLUSORY AND UNSUPPORTED

Defendants' futility argument is conclusory and unsupported. The opposition fails to address the binding factual admissions in Docket 41 and various other facts subject to judicial notice, which the Plaintiff has previously outlined, including in the concurrently pending judicial notice request (Dkt. 329). Instead of engaging with this factual evolution, Defendants revert to boilerplate accusations of repetition and confusion. Such arguments are insufficient under *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048 (9th Cir. 2003), which holds that the presumption in favor of amendment is especially strong where there is no showing of bad faith or prejudice.

VI. OTHER DISINGENUOUS OR MISCHARACTERIZED ASSERTIONS IN DOCKET 333

A. DEFENDANTS' RELIANCE ON *SALAMEH* IS MISPLACED AS THIS AMENDMENT IS JUSTIFIED BY NEWLY-HIGHLIGHTED JUDICIAL ADMISSIONS AND PENDING JUDICIAL NOTICE REQUESTS

Defendants' reliance on *Salameh v. Tarsadia Hotel*, 726 F.3d 1124, 1133 (9th Cir. 2013) is misplaced because, unlike the plaintiff in that case, the amendments here have not been futile repetitions but responsive clarifications based on an evolving record. Crucially, Plaintiff has not had an opportunity to amend the complaint with the full benefit of Defendant Spiro's binding judicial admissions from his Answer (Docket 41), nor with information provided from a variety of pending motions for judicial notice, some of which were only recently highlighted for the Court.

The quote from *Salameh*, that a plaintiff cannot simply say "trust me" to gain another amendment, actually supports Plaintiff's position. Plaintiff is not asking the Court for its trust; he is presenting the Court with concrete, admitted facts from a key defendant that substantiate the amended claims. The Fifth Amended Complaint is therefore justified by new evidentiary developments, not a "repeated failure to cure deficiencies." Courts routinely grant leave to amend a complaint when new

facts are discovered or when the significance of existing facts (such as binding judicial admissions) is brought to the Court's attention. An amendment is not a "repeated failure" in this context.

B. CORRECTING HAIGHT'S MISSTATEMENT OF EMINENCE CAPITAL'S BROADER PRINCIPLE

Defendants' narrow characterization of *Eminence Capital* is materially misleading. *Eminence Capital* emphasizes the Ninth Circuit's strong presumption in favor of amendment under Rule 15(a)(2), absent prejudice, bad faith, undue delay, or futility. (*Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d at 1052). The Ninth Circuit did not limit this standard exclusively to plaintiffs filing a single amended pleading; rather, it established a broadly applicable principle that leave to amend should be liberally granted unless defendants demonstrate substantial prejudice or futility, something Defendants have notably failed to do here.

C. DISTINGUISHING "REPETITIVE" VS. "RESPONSIVE"

Defendants inaccurately portray Plaintiff's amendments as repetitive failures to cure the same deficiencies. This is a fundamental mischaracterization. Plaintiff's amendments have consistently responded to evolving procedural instructions, specific judicial directives, and defendants' procedural objections. Plaintiff's filings explicitly reflect responsive clarifications, streamlining, and targeted refinements—not merely repetitive efforts to overcome unchanged pleading deficiencies. Defendant's allegation are contradicted by documented evidence, further highlighting credibility concerns.

D. HIGHLIGHTING HAIGHT'S LACK OF SUBSTANTIVE ARGUMENT AND EVIDENCE OF FUTILITY

Notably, Defendants provide no substantive argument or concrete examples demonstrating any incurable deficiency, futility, or prejudice. Their claim of Plaintiff's 'failure to cure fundamental deficiencies' is entirely conclusory, unsupported by evidence or detailed analysis. Under controlling Ninth Circuit precedent, conclusory assertions of futility without clear factual or legal substantiation fail to overcome the strong presumption favoring leave to amend. (See *Sonoma Cty. Ass'n of Retired Emps. v. Sonoma County*, 708 F.3d 1109, 1118 (9th Cir. 2013)).

E. EMPHASIZING THE LACK OF PREJUDICE TO DEFENDANTS

Defendants make no credible showing of prejudice or undue burden arising from Plaintiff's amended pleading. No new defendants are added, no discovery burden arises immediately, and Plaintiff's filings explicitly streamline and clarify allegations rather than complicate or confuse the litigation. Under Ninth Circuit law, including *Eminence Capital* itself, the absence of demonstrable prejudice weighs strongly in favor of granting leave to amend.

F. FALSE ASSERTION OF GAMESMANSHIP

Defendants repeatedly asserted that Plaintiff's proposed amended complaint (submitted on May 19, 2025) was not properly before the Court because it lacked a formal Rule 15(a)(2) motion. Plaintiff, in good faith and in the interest of procedural clarity, complied with that objection by submitting a properly noticed motion and attaching a previously docketed version of the proposed amended complaint in Dkt. 313.

Haight implies that Plaintiff is trying to delay or confuse by filing the 5AC. This is contradicted by:

1. The timing: The 5AC was submitted in the context of ongoing Rule 12(b)(6) briefings and, pursuant to the Court's subsequent request, was followed by a comparison document that was clearly marked and redlined.
2. The substance: The 5AC directly addresses previously alleged deficiencies by the defendants, demonstrating Plaintiff's intent to streamline and focus, not delay.

Haight deliberately conflates supplemental requests, procedural clarifications, and notices with formal amendments. The 5AC incorporates lessons from prior feedback, exactly what Rule 15 is meant to encourage.

G. IMPLAUSIBLE CLAIM OF CONFUSION

Defendants claim that the Fifth Amended Complaint (5AC) is vague and incomprehensible, yet they cite and respond to specific paragraphs with apparent ease, demonstrating their ability to selectively engage with the pleading when it suits their position. This tactic mirrors the pattern established by Defendant Spiro: invoking confusion as a shield against substantive engagement, while simultaneously parsing and challenging discrete allegations when convenient. Importantly, Defendants fail to address the prior response to an earlier iteration of the complaint, Dkt. 41, which contained significantly more causes of action and named more defendants than the now streamlined and narrowly tailored 5AC. Their silence on this point underscores the procedural inconsistency: if experienced counsel could meaningfully respond to a broader and more complex version of the complaint over a year ago, their claim of confusion now rings hollow and appears manufactured for tactical advantage.

H. HAIGHT'S SELECTIVE QUOTATION AND MISLEADING FRAMING EVOKE RULE 11 CONSIDERATION

Defendants' selective quotation and misleading framing of Eminence Capital risks materially misrepresenting controlling Ninth Circuit law. Under Fed. R. Civ. P. 11(b)(2), counsel has an affirmative obligation to fairly represent controlling authority and avoid distorted characterizations or misleading factual analogies. Plaintiff respectfully requests the Court evaluate Defendants' representations in this context accordingly.

Defendants' attempt to distinguish *Eminence Capital* fundamentally misstates both the factual context and controlling legal principles of that decision. *Eminence Capital* unequivocally establishes a strong presumption favoring amendment absent demonstrated prejudice, bad faith, or futility—none of which Defendants substantively address or support here. Plaintiff's amendments are explicitly responsive to this Court's instructions and defendants' procedural objections, not futile repetitions. Defendants' conclusory and unsupported characterization is insufficient under Ninth Circuit precedent and risks materially misrepresenting the controlling law. The Court should disregard Defendants' misleading portrayal and grant leave to amend in accordance with the established liberal standard under *Eminence Capital* and Rule 15(a)(2).

This is yet another example of Docket 333's failure to fairly and accurately brief the relevant standards, further underscoring Defendants' ongoing pattern of procedural misdirection, unsupported assertions, and material misrepresentations of controlling authority.

VII. CONCLUSION

Plaintiff has satisfied both the letter and spirit of Rule 15(a)(2). The Fifth Amended Complaint (5AC) was not filed in bad faith, nor as an effort to delay proceedings; it was filed in direct response to this Court's directive (Dkt. 311) and in good faith compliance with evolving procedural and

evidentiary developments. The redlined version—submitted transparently—demonstrates exactly how the 5AC clarifies and narrows the pleading, integrates newly available judicial admissions, and responds to both defense objections and the Court's prior concerns. In contrast, Defendants now attempt to weaponize the very compliance they demanded, retreating to procedural objections untethered from Rule 15's liberal standard and unsupported by any showing of prejudice.

Accordingly, Defendants' current objections should be given no weight. They do not raise any valid basis under *Foman v. Davis* for denial. Rather, they reflect an ongoing effort to insulate themselves from scrutiny by relying on procedural inconsistencies of their own making, an approach the Court should now reject.

The defense's attempt to reframe Plaintiff's compliance as a defect, after claiming noncompliance in the first instance, is not just contradictory, it is emblematic of a broader strategy of procedural evasion. The record demonstrates that Plaintiff has met every procedural challenge with curative precision and in good faith. Rule 15(a)(2) motions filed in response to a court directive and opposing party objections are not only permitted, they are also required under standard federal practice.

Defendants conspicuously avoid addressing the newly raised judicial admissions, contradictions, and evidentiary supplements that support the 5AC. They do not, and cannot, explain how denying amendment would promote efficiency, resolve factual disputes, or advance justice. On the contrary, their strategy seeks to suppress discovery and stall litigation on procedural grounds already eroded by the record itself.

Moreover, Defendants themselves have repeatedly declined to engage meaningfully in the meet-and-confer process, and the record reflects a consistent pattern of procedural evasion rather than cooperation. Any alleged deficiency in conference is harmless under these circumstances.

Respectfully submitted,

Dated: June 20, 2025

Todd R. G. Hill
Plaintiff, Pro Se

STATEMENT OF COMPLIANCE WITH LOCAL RULE 11-6.1

The undersigned party certifies that this brief contains 3,344 words, which complies with the 7,000-word limit of L.R. 11-6.1.

Respectfully submitted,

June 20, 2025
Todd R.G. Hill
Plaintiff, in Propria Persona

Plaintiff's Proof of Service

This section confirms that all necessary documents will be properly served pursuant to L.R. 5-3.2.1 Service. This document will be/has been electronically filed. The electronic filing of a document causes a "Notice of Electronic Filing" ("NEF") to be automatically generated by the CM/ECF System and sent by e-mail to: (1) all attorneys who have appeared in the case in this Court and (2) all pro se parties who have been granted leave to file documents electronically in the case pursuant to L.R. 5-4.1.1 or who have appeared in the case and are registered to receive service

through the CM/ECF System pursuant to L.R. 5-3.2.2. Unless service is governed by Fed. R. Civ. P. 4 or L.R. 79-5.3, service with this electronic NEF will constitute service pursuant to the Federal Rules of Civil Procedure, and the NEF itself will constitute proof of service for individuals so served.

Respectfully submitted,

June 20, 2025
Todd R.G. Hill
Plaintiff, in Propria Persona